

REMARKS/ARGUMENTS

This paper is responsive to the Final Office Action dated May 27, 2004, having a shortened statutory period set to expire on July 27, 2004 in which,

Claims 1-13, 33, 35 and 38 were pending;

Claims 1-5, 9-13, 33, 35 and 38 were rejected; and

Claims 6-8 were objected to.

No claims have been added, canceled, or amended in the present response. Accordingly, claims 1-13, 33, 35 and 38 remain currently pending in the present application.

Formal Matters

In the present Office Action, claims 6-8 were objected to (presumably for being dependent upon rejected base claims) but indicated as being otherwise allowable. Although Applicants have not elected to amend claims 6-8 into independent form at the present time, Applicants wish to express their appreciation for the Examiner's indication of allowable subject matter and reserve the right to so amend claims 6-8 at a later time.

Rejection of Claims under 35 U.S.C. §103

In the present Office Action, claims 1-13, 33, 35 and 38 were rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,999,286 issued to Venkatesan (hereinafter, "*Venkatesan*") in view of United States Patent No. 6,457,050 issued to Cowan et al. (hereinafter, "*Cowan*"). While not conceding that any of the Examiner's cited references qualify as prior art, but instead to expedite prosecution, Applicants have chosen to traverse the Examiner's rejections as follows.

The following arguments are made without prejudice to Applicants' right to establish, for example in a continuing application, that one or more of the cited references do not qualify as prior art with respect to an invention embodiment currently or

subsequently claimed. Applicants respectfully submit that the present Office Action fails to provide adequate suggestion or motivation to combine or modify the cited references in such a way as to render Applicants' claimed invention embodiments obvious as required to establish a *prima facie* case of obviousness under 35 U.S.C. §103; that neither *Venkatesan* nor *Cowan* teach, show, or suggest all elements of Applicants' claims; and consequently that, even if combined, the cited references fail to teach, show, or suggest all elements of Applicants' claims.

With regard to the combination of *Venkatesan* and *Cowan*, the Examiner states in the present Office Action that, "Therefore, it would have been obvious to one [of] ordinary skill in the art to use the features of Cowan et al. in to Venkatesan to dynamically and automatically establish [a] virtual path between source node and destination node when a failure is detected." (Office Action dated May 27, 2004, Page 3, Lines 8-11) Applicants respectfully submit that the above-quoted portion of the present Office Action, while describing how the Examiner would combine the teachings of *Venkatesan* and *Cowan*, provides no suggestion or motivation as to why the cited references would be combined. In fact, Applicants are unable to find any suggestion or motivation within the references themselves or based upon knowledge of one of ordinary skill in the art at the time of Applicants' invention that the references should or even could be combined as proposed in the current Office Action. Applicants therefore respectfully submit that the burden of proving the required suggestion or motivation to combine the teachings of *Venkatesan* and *Cowan* has not been met in the current Office Action.

Applicants further submit that the teachings of *Cowan* and *Venkatesan* are incompatible. *Cowan* teaches a centralized system and method for restoring communications within a network, as distinguished from the distributed system and method of *Venkatesan*. More specifically, *Cowan* teaches at column 6, lines 4-5 that, "RTR Manager 32 also provides centralized control of the RTR 10 system." (emphasis supplied) By contrast, *Venkatesan* teaches a distributed telecommunications network restoration process (*Venkatesan*, Column 2, Lines 25-26). Applicants submit that distinct centralized and distributed restoration systems or methods would not be combined together as this would be merely redundant, would provide not benefit over

either system independently, and would unnecessarily increase traffic on associated networks. Applicants further submit that a single restoration system or method cannot be both centralized and distributed simultaneously. Consequently, Applicants submit that the teaching of *Venkatesan* is incompatible with that of *Cowan* and that the Examiner's proposed combination is therefore improper.

Applicants further respectfully submit that the combination of *Venkatesan* and *Cowan* fails to teach, show, or suggest, "dynamically configuring a set of connections between said first node, said second node, and said intermediary nodes" as claimed (Applicants' claim 1). In the present Office Action, the Examiner indicates with regard to Applicants' claim 1 that an "explore message" sent from the source node 'S' to the destination node 'D' of *Venkatesan* via tandem nodes T1-T4 teaches, "sending a message from said first node to said second node" as claimed and further that

...destination node D sends a command message 100 back to source node S via tandem nodes T1-T4 (sending reply message over intermediate nodes) to establishes alternate paths with capacity capable to connect the source node S and destination node D (identifying intermediate nodes comprising physical path in response to the sending of message).

Applicants respectfully disagree. More specifically, Applicants respectfully submit that *Venkatesan* fails to teach, show, or suggest configuring (dynamically or otherwise) a set of connections between the first and second nodes by sending a reply message in reply to a message sent from a first (source) node to a second (destination) node as claimed by Applicants.

In contrast to Applicants' claimed embodiments which employ a two stage (message/reply) method *Venkatesan* teaches three distinct phases (explore/return/maximum flow process) (see *Venkatesan*, Column 6, Lines 14-15) and the transmission of three associated messages/message types (explore, return, connect). According to the teaching of *Venkatesan*, a disruption of traffic between a source node and destination node results in the transmission of an "explore message" from a source node to a destination node via tandem nodes. After receiving the explore message, the destination node responds during a return phase by sending a return message back through the tandem nodes to the source node. (see *Venkatesan*, Column 7, Lines 40-43)

As each tandem node receives the return message, it appends information to a “spare route info” field of the return message and allocates spare capacity on the span on which the return message was received to the source-destination node pair.

Venkatesan further teaches that once the return message reaches the source node, the “spare info field” of the return message contains information about a spare route from the source node to destination node and the amount of spare capacity available on the spans that make up the spare route. *Venkatesan* does not teach however that any connections are actually established via transmission of the return message. Rather, *Venkatesan* teaches a connect message (see *Venkatesan*, Column 9, Lines 31-32) used to actually make any necessary cross connections,

Source node, S, sends the connect message 120 to the next node in the alternate route which is tandem node, T1. Tandem node, T1, issues the command to make necessary cross connections and forwards the message to tandem node, T4. The connect message 120 travels the chosen alternate path and finally reaches its destination node, D. (*Venkatesan*, Column 9, Lines 50-55)

Venkatesan therefore fails to teach, show, or suggest, “configuring a set of connections” between a first (source) node and a second (destination) node using a “return message” sent from destination node ‘D’ in response to the receipt of an explore message from source node ‘S’. Applicants’ further respectfully submit that as both explore and connect messages of *Venkatesan* are sent by source node ‘S’, a connect message cannot be construed as being sent “in reply to” an explore message, as this would require source node ‘S’ to reply, in effect, to itself. Accordingly, *Venkatesan* also fails to teach, show, or suggest that a “connect message”, used to make cross connections, is sent “in reply to” an explore message.

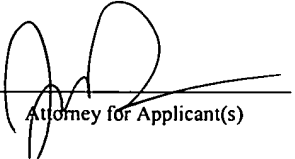
Consequently, as *Venkatesan*’s return messages are not used to configure a set of connections between a first node, second node, and intermediary nodes, and further as *Venkatesan*’s connect messages are clearly not sent “in reply to” explore messages, *Venkatesan* fails to teach, show, or suggest, “configuring a set of connections between said first node, said second node, and said intermediary nodes, if any, using intermediary links of said plurality of optical links by sending a reply message in reply to said message” as claimed by Applicants. In the present Office Action, *Cowan* is not cited as

teaching, showing or suggesting "configuring" as claimed. Consequently, Applicants submit that even if *Venkatesan* and *Cowan* were combined as proposed, the resultant combination would not teach, show, or suggest all elements of Applicants' claims as indicated in the present Office Action.


For at least the foregoing reasons, Applicants submit that Applicants' claim 1, as amended, is allowable over *Venkatesan* and *Cowan*, alone or in permissible combination and request that the Examiner's current rejection(s) be withdrawn. Applicants' claims 33, 35, and 38 each contain one or more limitations substantially similar to those described with respect to Applicants' claim 1 and are therefore allowable for at least those reasons stated for the allowability of claim 1. In addition to the Examiner's reasons for allowability, all remaining claims, depending directly or indirectly from Applicants' claims 1, 33, 35, and 38 are similarly allowable over the Examiner's cited references for at least the reasons stated herein.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5097.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on <u>7-27-04</u> , 2004.	
 _____ Attorney for Applicant(s)	<u>7-27-04</u> _____ Date of Signature

Respectfully submitted,


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